App. F. IX-4

25

Previous References

1937.
(R.T.)

e No. 53-37

Serial Nos. 112

Letter References
R.T. Dep - 616
54-55

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 2.

Part B for year 38.

SUBJECT.

Audit objections re refund of taxes collected on motor vehicles in the Mysore District.—
Waiving of.—

Issued G.O. No. T. 4060-62/R.T. 53-37-2 dy 13.6.38.
approving as a special case, of the action of the
Dist. Magte in having sanctioned refunds in the
cases objected to in audit. —

WD 0295—GPB—22,500—13-8-37

To
The Dist. Magte
The Comptr. to Govt.
The Legl. Asstt. to Govt.

Audit Objections regarding refund of tax withdrawal of.

2287

General and Revenue Secretariat

RT File No. 51 of 1937. [App. E-III—2

Serial No.	
1	From the D.M, Mysore &c— Letter No. Mar. 327/37-38 of 26.4.38 requesting orders for the withdrawal of Objections raised by the Audit Staff in the matter of refund of taxes on bus No. Mys. 5717. The matter relates to audit objection on the refund of Service tax paid for the quarters ending 31st Dec 1936 and 31st March 1937 in respect of bus No. Mys. 5717 belonging to the Proprietor of the Sri Yoga Narasimha Motor Service, Mysore.
	2. The first objection is in regard to refund of Service tax paid for the quarter ending 31.3.37. Full tax for the quarter was credited to the Huzurnavapatna Taluk Treasury on 31.12.1936. The Vehicle being under repair did not run during the months of January 1937. The Service commenced in the first week of February 1937. According to Rule 24(a) of the Tax Rules, the license should have been surrendered immediately and reclaimed in July but it was surrendered on the last day of the quarter, viz. 31.3. Strictly according to Rule 24(c), the party was not entitled to any refund but the D.C. has refunded proportionate tax for the months of January 1937 to March the auditor has taken objection.
	3. The second objection is in regard to refund of Service tax paid for the quarter ending 31.12.1936. The party did not

WD 0284—GPB—30,000—13-8-37

edit the tax due for the quarter till 4.8.37. Evidently
o demand was made if the same during the quarter.
e party himself presented an application to the DTO on
.8.37 for permission to credit the tax and after permission
eing granted he credited the tax to the Mysore Govt. Treasury
n 4.8.37. In the same application he requested for the
fund of the tax as the vehicle was under repairs during
entire quarter. According to Rule 24-(9)(i) of
Tax Rules, the last date for application for refund of tax
this case was 31.1.1937. As the party's application for
fund was made on 3.8.37, the DTO should have either
efused to grant refund or recommended for sanction by
ovt. The auditor has taken objection to the DTO having
anctioned refund in this case contrary to rules.

4. The DTO says that his action in having granted
efund in the above case is in order and requests that
e objections may be ordered to be withdrawn. The auditor's
jections are that the refunds ordered by the DTO are irregular
nd that the amount refunded should be recovered.
he objections cannot be ordered to be withdrawn as
hey are according to rules. The recovery of the amounts
t this distance of time may not be reasonable. The
ction of the DTO in having refunded the amounts may
erhaps be ratified by an order of Govt. with an observation
hat such irregular grant of refunds in contravention of

D.

P. 145- Motor Manual

Audit Objection re refund of tax—
(Mysore St)

M. T. B. F. 13.]

Mysore Traffic Board. | File No. 2035 of 193 .

Serial No.

of rules should not be made in future.

Submitted for orders.

20/VI/38

5. The Dy Com has responded to comm in contravention of the rules. On merits, the party stories have been contradictory to reports, if the Surrender of the licence in time and the applic for Refund were made within time allowed. The objections raised by the Accts are on mere technical grounds. The acts of the Dy Com may be regretted, but the Research that such Refunds of Refund should not be made in contravention of the rules.

GENERAL REGISTRY
23 MAY 1938
6963

Secretary
6)

TJ
20/5

7 Formal sanction may be granted, in regard to refund already made by the Deputy Com, as

Audit Objection re refund of tax (Mysore Dt.) —

(abd)

2227

2227

RT. File No. 55 of 1937. Mysore Traffic Board.

Serial No.

Returns herein, the Comptroller with such remarks the objections.

Secretary)
&
9. Report may be sanctioned

TA 27/5

GENERAL SECRETARY. 28 MAY 1938 710

6 28/5/38

10. TA 28/5

Draft G.O. Subs. for consideration

28/5/38. Secretary)
12

13 TA 31/5

GENERAL SECRETARY. 1 JUNE 1938 725

14 Dr

6 2/6

15 TA 8/6

TYPING SECTION 2 JUNE 1938

Issued G.O.T. 4060-62/R.T. 55-37-2 dt. 13.6.38 to A.M. Mysore the comptroller to Government and Secy. M.T.B.

2

13/6

28/6/38

(10. Finance. refund of tax — communication thro Fin. Dept.

M. T. B. F. 13.]

Mysore Traffic Board. | File No. | of 193. 125

Serial No.

O. (com. put up)

Letter No. 17/LRD of 13.7.38 from the Comptr. to Govt. reporting that G.O. No. XXV 1. HOD-MV-35-37-2 of 13.6.38 may be communicated through the Fin. Dept.

The file leading to the G.O. under reference is placed below. It relates to two cases of refund where licence was not surrendered in time in one and application for refund was not made in time in the other. But for these technical defects, the party is entitled to the refund for the period of non-use. The D. should have obtained previous sanction of Govt. for relaxation of the rule in these cases, but he sanctioned the refund himself giving a wrong interpretation to the rules. The auditor objected to the grant of refund on the score that it was not strictly according to rules and required the amount so refunded to be recovered from the party. On the representation of facts by the D.H., his action was approved, ignoring the defect in the case on mere technical grounds. The Comptr. requires that the G.O. issued in this behalf be communicated through the Fin. Dept.

2 It may be pointed in this connection that refund in the above cases is admissible under Rule XXV 23 of the Motor Vehicles Tax Rules. But the conditions laid down unda Rule 24 XXV were not strictly complied with. These were relaxed to a certain extent and it is presumed that the administrative Dept. of Govt. is competent to

NOTE —Contn. Sheet.

WD 0179—GPB—4,000—20-8-36

G.O. Sanctg. refd. of tax – Communication through Fin. Deptt.

File No. of 193 . Mysore Traffic Board.

Serial No.

whether the Commencement of the Fin. Deptt. the Rules under the Road Traffic Taxes Act have been framed & that and amendments thereto issued by the Administrative Deptt. of Govt. and nowhere in the said Act is stated that rule or orders passed thereunder should issue thro the Fin. Deptt. In hundreds of cases refunds have been claimed by the Administrative Deptt. relaxing the rules and the same communicated to the Comptr. but not in one instance did he require the sanction to be communicated through the Fin. Deptt. This is for the first time that he requires such a communication.

3. The Comptr. is entitled to ask for such a communication. Whenever any proceedings of Deptt. of Govt. transgresses any financial rule or order. In the case under reference no financial rule or order has been transgressed. The Comptr. may perhaps be informed that it is not necessary to communicate the G.O. under reference through the Fin. Deptt.

Subs. for orders

22/VIII/38 Dy. Secy.

5. Secy.

6. Please put up the rule re ~~such~~ this Deptt communication

7. TA 9/8

8. Subs. M.C.A. Vol. I. post slip (Vide art. 273) together with G.O. No. F. 175/32-87 F.D. 676-17-1 dt 22.6.38.

10/VIII/38 Dy. Secy.

10 TA 10/8

11 Please ask the Comptr. to be so good as to say under what rule Commr. this Deptt ~~should~~ becomes necy in this case. Ind 12/8

12 TA 12/8

4 Submitted

TA 27/7

GENERAL SECRETARY SECRETARIAT 28 JULY 1938 6224/38

GENERAL SECRETARIAT 12 AUG. 1938 884

Falling [illegible] 12 TS

Y.O. Sanct. regd. of tax. — Communication thereon.

M. T. B. F. 13.]

Mysore Traffic Board. | File No. | of 193 . 125 MTB of 38

Serial No.

Y.O. No. T.3/R.T. dated 23.8.38.

12. S.1. Forwarded with compliments to the Comptroller to Government for favor of stating under what rule communication thro' Finl. Sectt. becomes necessary in this case.

By order,

Dated the 23rd August 1938.

For Genl. Secy. to Govt.

L.A.W. Orders

COMPTROLLER'S OFFICE 23 AUG 1938 138/Spl BANGALORE.

Memo of Y.O. 62 L.A.D.

No.AR.13/Spl dated 12-9-38

U.O.No.207/LAD. dated 10th September 1938.

Returned with compliments.

14. Under the opening para. of Chapter VII M.C.A.C. Vol.I, refunds of revenue have to be treated as Miscellaneous expenditure and under Article 272 (d) of the same code the practice of sanctioning refunds contrary to rules which leads to increase of expenditure requires the previous consent of the Finance Department. There have been several cases of such refunds sanctioned contrary to rules. Vide also portion marked A in red pencil in para 2 supra, which introduced a new practice, though each such case might be sanctioned as a special one.

GENERAL SECRETARY 12 SEP 1938 J.O.

P. Venkatagiriah
Comptroller.

(Copy of note Vol. I Part VI) KR

15. In the opening para of chapter VII note XXX referred to by the Comptroller the sanction required is that of Govt. In the absence of specific mention of "Sanction of Govt. in the Fin. Dept." sanct. in the administrative Dept. may be considered sufficient. In the case of sanction in question, neither intro-

(Comm. Rly. 55-37-2)

NOTE.—Contd. Sheet.

· Saving. refund of tax. — Communication from Fl Dept.

File No. of 193 . Mysore Traffic Board.

Serial No.

introduction of a new principle nor practice likely to lead to increase of expenditure" as contemplated under Article 292 (d) of Mysore W.I. quoted by the Comptr. as been involved. The principle on which refund of tax is granted is enunciated in Rule 23 of the Motor Vehicles Tax Rules and in no case it has been transgressed. But there are certain conditions which the applicants for refunds have to fulfil. These are enumerated in Rule 24 of the above Rules. In deserving cases these conditions are somewhat relaxed on the recommendation of the DEP & D.Rs and refunds sanctioned by Govt. The DEP and D.Rs are empowered to sanction refunds strictly under the Rules and the power of relaxation of the conditions referred to above has been delegated to the Traffic Board. (Vide G.O. No. T.1699-510/RT 23-37-1 dt 29.11.37). Such being the case, the argument that the sanction for refund accorded by Govt. in the administrative Dept. should be communicated through the Fin. Dept. seems to have no force.

16. Fin. Sectt. may also perhaps conclude.

Z. (Code Vol I)

P 141-142 Motor Vehicles

P 143-146. —D—

U

Mr. WS will see

may be closed.

Dy 17

Dy 18

Fin Sectt 19

TN 16/9

NO75- 5/10/38 GENERAL SEC 16 SEP.

TN 21/9/38

FINANCIAL SECRETARY U.O.No.Fl. 842 21 SEP. 1938 BANGALORE.

21. To Comptroller with compliments for favour of further remarks.

Financial Secretary to Govt.

No. 232/8pc

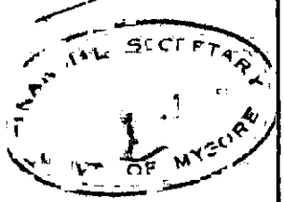
T.O. 12a q. refd. of tax. — communication must be

M. T. B. F. 13.]

Mysore Traffic Board. | File No. | of 193 .

125

Serial No.



8/11/11-38.

No. 307/Spl dated 10-11-38

U.O.No.310 LAD dated 8-11-38

Returned with compliments.

22. In para 2 of the Notes, it is stated that in hundreds of cases refunds have been sanctioned by the Administration Department relaxing the rules. Such relaxation of the rules in a large number of c introduces a new principle and has the effect of making the exception itself a general rule, with th result that it leads to increased expenditure.

M. Viswanatha
Comptroller
8/11

CV

23. So far as the present case is concerned, I think that financial concurrence was necessary as related to the waiving of Audit objections and as refund was allowed by the District Magistrate cont to the prescribed financial procedure or rules.

23.11.38
8/11

24. I agree about this case as there was an audit obj^n and it was being waived. Hence reference may be communicated. This seems to be consequent on the Fin Secrett for all cases in wh audit obj^ns are waived. 17/11/38.

25. Pair copies of the C.O. Subs. for signature.

TA 13/11

130 XI/38.

Draft Hain before.

TA 14/11

15/11

JR-Cont(452

NOTE —Contn. Sheet.

WD 0179—GPB—4000—20-8-36

T.O. Sanct. rlo - ptax. — Communication bfl &c

File No.	of 193 .	Mysore Traffic Board.
		Serial No.

27 The General Secretary has agreed with Fl. Secys. views. — Paragraphs 23 & 24.

28 For perusal before comm.

Fl. Secy.)

29 [illegible] 19.12.38

Sd/ 16.12.38.

30. Issue.

Issued Sd/ 19.12.38.

Communicated T.O. No. T. 4060-62/RT. 55-37-2 13.6.38. to Comptr. Mysor Fl Secy.

Fl-ww1452

12/T

B.

Sd/ 22/XII/38

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA

Comptroller's Office Bangalore,

OFFICE OF THE SECRETARY,
MYSORE AUDIT BOARD,
OF MYSORE.
No. 125
Dated 18.7.38

No. T.A.D. Dated the 13th July 193 8.

The Secretary to Government,
General Department, Bangalore.

GENERAL SECRETARY
16 JULY 1938

Sir,

O. (Com. Fund No) TA 16/2

With reference to G.C.No. T 4060-2 R.T. 55-37-2 of 13-6-38 approvin the action of the District Magistrate, Mysore in having authorised contra to rules the refund of a sum of Rs. 152-9-0 being the service tax which h been objected to in audit, I have the honour to request you to kindly communicate the order through the Finance Department of Government.

I have the honour to be,
Sir,
Your most obedient servant,

Comptroller.

J.V.

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE.

Read:-

Letter No. M.V.327/37-38 dated 26th April 1938 from the District Magistrate, Mysore District, enclosing the extract from the notes of audit objections and reporting that the two objections may be ordered to be withdrawn.

Order No. T.4060-62/R.T.55-37-2,
Bangalore, dated the 13th June 1938.

In the first case, Service Tax for the quarter ending 31st March 1937 was credited to the Krishnarajapet Taluk Treasury on 31st December 1936. It was definitely known at the time that the vehicle being under repairs was not in a condition to be used on the road. The license should have therefore been surrendered immediately to the refunding authority as required in Rule 24 (a) of the Motor Vehicles Tax Rules, Part I, and reclaimed when the vehicle was brought into use in February 1937. The party having surrendered the license only on 31st March 1937 was not strictly entitled to any refund in accordance with Rule 24 (c) of the aforesaid rules.

In the second case, Service Tax for the quarter ending 31st December 1936 was not credited till 4th August 1937. In his application dated 3rd August 1937 to the District Magistrate, asking for permission to credit the tax, the party reported also for the refund of tax on the ground that the vehicle was under repairs during the whole quarter. According to Rule 24 (g) (i) of the Tax Rules, the application for refund should have been made within one month from the date of expiry of the quarter in respect of which the tax was payable.

Refunds allowed in both the cases referred to above are

are not strictly in accordance with the rules. But in view of the fact that they have been made long back and the -- recovery of the amounts from the party, as objected to by the Auditor, would cause hardship, Government are pleased to approve, as a special case, of the action of the District Magistrate in having sanctioned refunds in the said cases.

T. L. Narayana

For GENERAL SECRETARY TO GOVERNMENT.

To

The District Magistrate, Mysore District, with the records.
The Comptroller to Government through
Financial Secretariat.*
The Secretary, Mysore Traffic Board.

---

* With reference to his letter No. 17/L.A.D. dated 13th July 1938.

Extract from Audit Objection Notes.

(39) Refund record No.40/36-37. The period of refund is 1-1-1937 to 5-2-1937 but the license was surrendered only on 31-3-1937. Under the rule referred to in objection 38, (24 (c) page 143) he is not entitled to refund of tax for more than a day. A sum of Rs.40-9-0 will have been paid in excess and it may be kindly recovered.

(40) Refund record No.4/37-38 Mys.5717. The period of refund is the second quarter of 1936-37 for which the party paid Service Tax on 4-8-1937 i.e., after the lapse of 7 months from the end of the quarter for which it was due while it should have been paid on or before 7-9-1936 under the rule. The refund is claimed on 3-8-1937 and the amount refunded is Rs.112/- -- under Rule 24 (g) (i) page 145 of the Motor Manual no refund is admissible on an application not made within a period of one month for the date of the expiry of the period for which the tax was payable. The amount may be kindly recovered.

"COPY".

For GENERAL SECRETARY TO GOVERNMENT.

R.T. 55 37-1. 43 2227/1

OFFICE OF THE DISTRICT MAGISTRATE,
MYSORE DISTRICT.

No. ~~G2- 327/37-38~~.
Encl. M.V. 327/37-38
Ea: 3 fls

Dated, Mysore, the ...25th April..... *193* 8.
26

FROM M. G. MEHKRI, ESQ., B.A., LL.B.,
~~T. G. RAMA IYER, Esq., B.A.,~~
District Magistrate, Mysore District.

Wrs.S.R.

GENERAL SECRETARY.
27 APR. 1938

To

M. Venkatesa Iyengar, Esq., M.A.,
Secretary to the Government of
His Highness the Maharaja of Mysore,
General Department, Bangalore.

SIR,

~~GENERAL SECRETARY~~
RECEIVED
27 APR. 1938

Subject:- Audit objections Nos. 39 and 40 in the Notes of Audit for the period ending ~~31st December 1937~~.

I have the honour to enclose herewith an extract from the notes of audit of objections Nos. 39 and 40 regarding refund of service tax on Bus No. Mys.5717 belonging to Mr.K.Narayana Rao, Proprietor, Sri Yoganarasimha Service, for the month of January 1937, and for the ~~second quarter~~ of 1936-37 respectively, on the ground that refund should have been allowed only for one day and not for one month under Section 24 (c), as the license was surrendered on 31st March 1937, and the date for purposes of refund shall count from the date from which the current license was surrendered in the first case and that the refund was not admissible at all in the second case under Rule 24 G (1) as the application for refund was made on 3-8-37 and not within a month after the tax became payable, and requesting that the amounts of Rs.40-9-0 and Rs112/- respectively, be recovered from the party. The circumstance under which the refunds have been made will show that they have been properly made.

2. At the time of the general inspection of the motor vehicles held on 2-7-1936, the vehicle in question was not pass as being in a good condition to ply as a public service vehicle, and the owner consequently put in an application on 15-7-36 with the license stating that refund of service tax for the quarter ending

P.T.O.

30th September 1936 may be granted and that he would not run the bus till next January (1937) as the parts were not available for the necessary repairs being - effected. Refund was accordingly granted for two months (August and September 1936) according to Rules.

3. For the next quarter or the second quarter of 1936-37, the Proprietor did not credit the tax on the due date as the vehicle was under repairs throughout that quarter, but was permitted to credit it on x 3rd August 1937, and he claimed refund of tax also in the same application and refund of Rs.112/- as per rules was granted and this forms the subject-matter of objection No.40.

4. The repairs of the vehicle were completed in February 1937 and it actually started plying from the 1st week of February 1937 and this is verified by the report of the Police who have stated that the bus in question did not run during the month of January 1937, and the Brake - Certificate issued by the Bus Inspector stated that it was inspected by him on 5th February 1937. This was further confirmed by the repairer's certificate which stated that the bus was under repairs till the end of January 1937 and was handed over to the Proprietor only on 2nd February 1937. Refund of tax for one month, i.e., January 1937, was therefor granted. This forms the subject-matter of Objection No.39.

5. The ground of objection No.40 is that no refund is admissible under Rule 24 (g) as the application was made on 3rd August 1937, i.e., not within a period of one month from the date of the expiry of the period for which the tax was payable. No refund is possible unless the tax is paid. The application in this case has been made on the very date, the tax was paid, i.e., within a month from the

date of payment. The interpretation of the Auditor d not seem to be liberal and in all such cases, the par paying the amount be treated more favourably. I ther request that Objection No. 40 may be ordered to be wi drawn.

6. As regards Objection No.39. the Audito objection is that according to Clause (C) of Rule 24, date for purposes of refund shall count only from the from which the current license was surrendered, and t as the party surrendered it on 31st March 1937, he wa entitled to the refund of tax only for a day. This r again applies to a case of refund which has been appl for, for the first time or to a new case. As stated the party had already got refund for two months (Augu and September 1936), and for the entire period of the second quarter of 1936-37 (October, November and Dec 1936) and the period of refund to which this objectio relates is January 1937.

7. The party had stated at the time of pre ing his first application on 15th July 1936, that he not run the vehicle in question as the repairs were n expected to be complete before February 1937. As a pa cannot credit the service tax for portions of a quarte he credited the tax for the entire quarter on 31st Dec 1936, as he knew that he would be able to run his bus the next quarter. The vehicle was examined by the Bus Inspector and a brake certificate was issued only on 6 February 1937 and this vehicle ~~was included in the per only on~~ ran on line only for 5th February 1937. After ascertaining from th Police that the vehicle did not run during January, as required in Clause (b) of Rule 24, refund was granted; This case will therefore fall under the Proviso (1) to Clause (C) and not under Clause (C). According to Clause (B) of the same rule the period allowed for presenting an application

application for refund of tax was one month from 31st March 1937, and the party has put in his application on 31st March 1937 in time enclosing his license. I am of opinion that the refund in this case is also in order and objection No. 39 may also be kindly ordered to be withdrawn. The connected files i.e., refund record Nos. R.B.12/36-37, R.B.40/36-37 and R.B.4/37.38 are enclosed herewith for reference and return when nolonger required.

I have the honour to be,
Sir,
Your most obedient servant,

For District Magistrate,
Mysore District.
(absent from Station)

KRG-2.

Extract from Audit Objection Notes

39) Refund record No.40/36-37. The period of refund is 1-1-1937 to 5-2-37 but the license was surrendered only on 31-3-1937. Under the rule referred to in objection 38, (24(c) page 143) he is not entitled to refund of tax for more than a day. A sum of Rs. 40-9-0 will have been paid in excess and it may be kindly recovered.

40) Refund record No.4/37-38 Mys. 5717. The period of refund is the second quarter of 1936-37 for which the party paid service tax on 4-8-1937 i.e., after the lapse of 7months from the end of the quarter for which it was due while it should have been paid on or before 7-9-36 under the rule. The refund is claimed on 3-8-37 and the amount refunded is Rs. 112/-.under rule 24 (g) (i) page 145 of the Motor Manual no refund is admissible on an application not made within a period of one month for the date of the expiry of the period for which the tax was payable. The amount refunded may be kindly recovered.

" C o p y "

For Deputy Commissioner & District Magistrate,
Mysore District.

G. R. S. App. F VI—G 2]

SUBJECT .....

.....

.....

Diary. No of letter replied to .....

General and Revenue Secretariat

( )

the *193* .

Date of issue..... 193 .

Signed by .....

XX Here type Hag. W.

May this be—

(i) printed ?

(ii) treated as a standing order ?

(iii) published in the Gazette, English Part ?

(iv) translated ?

(v) placed at the disposal of the press ?

(vi) published in the Gazette, Kannada Part ?

Section RT.

File No. 55-3

Serial No. 2

Proceedings of the Government of His Highness the Maharaja of Mysore.

Read— Letter No. NV 327/37-38 dt 26.4.38 from the Dte, Mysore Dt, enclosing the marginally XXX noted extract fro the note of audit objections and reporting that the two objections may be ordered to be withdra

---

Order thereon.—No. T. 4060-62/RT. 55-

dt 13th June 1938.

In the first case, Service tax for the quarter ending 31.3.37 was credited to the Krishnarajapet Sa Treasury on 31.12.1936. It was not known at the time that the vehicle being under repairs was not in

ondition to be used on the road. ~~and~~
Therefore
e licence should have been surrendered
immediately to the refunding authority
s required in Rule 24(a) of the motor
ehicles Tax Rules, part I. and reclaimed
when the vehicle was brought into
use in February 1937. The party
aving surrendered the licence only
n 31. 3. 37 was not strictly entitled
o any refund in accordance with
ule 24(c) of the aforesaid rules.

In the second case, service
up for the quarter ending 31.12.36
as not credited till 4. 8. 1937.
his application dated 3. 8. 1937 to the
St. Rayte, asking for permission to
redit the tax, the party reported also
the refund of tax on the ground
at the vehicle was under repairs
during the whole quarter. According
Rule 24(9)(i) of the Tax Rules,
e application for refund should

List of Enclosure

Copied by

Examined by

M. T. B. F. 12.

MYSORE TRAFFIC BOARD.

(*Continuation sheet draft form.*)

The present case does not fall within this rule.

have been made within one month from the date of expiry of the quarter in respect of which the tax was payable. No application for refunds in this case having been made long after the due date, refunds should have been either refused or recommended for sanction of Govt.

Refunds allowed in both the cases referred to above are not strictly in accordance with the rules. But in view of the fact that they have been made long back and the recovery of the amounts from the party, as objected to by the Auditor, would cause hardship, Govt. are pleased to approve, as a special case, of the action of the Dist. Magte in having sanctioned refunds in the said cases. The Dist. Magte is requested to sanction refunds in future strictly in accordance with the rules prescribed

WD 0178–GPB—500—28-9-36

~~in this behalf.~~

Encl: Secy.

TT. 2/6/38

Mr Dr, Mrs Dl, with the records.

Mr Comptr. to Govt.

Mr Secy. Proffitt.

30/V/38

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

Read:-

Letter No.M.V.327/37-38 dated 26th April 1938 from the District Magistrate, Mysore District, enclosing the ~~marginally~~ extract from the notes of audit objections and reporting that the two objections may be ordered to be withdrawn.

O R D E R NO. T. 4060-62/R.T. 55-37-2. 13/5

Bangalore, dated the ~~12th~~ June 1938.

In the first case, service tax for the quarter ending 31st March 1937 was credited to the Krishnarajapet Taluk Treasury on 31st December 1936. It was definitely known at the time that the vehicle being under repairs was not in a condition to be used on the road. The license should have therefore been surrendered immediately to the refunding authority as required in Rule 24(a) of the Motor Vehicles Tax rules, part I and reclaimed when the vehicle was brought into use in February 1937. The party having surrendered the license only on 31st March 1937 was not strictly entitled to any refund in accordance with Rule 24(c) of the aforesaid rules.

In the second case, service tax for the quarter ending 31st December 1936 was not credited till 4th August 1937. In his application dated 3rd August 1937 to the District Magistrate, asking for permission to credit the tax, the party requested also for the refund of tax on the ground that the vehicle was under repairs during the whole quarter. According to Rule 24 (g) (i) of the Tax Rules, the application for refund should have been made within one month from the date of expiry of the quarter in respect of which the tax was payable.

Refunds allowed in both the cases referred to above are not strictly in accordance with the rules. But in view of the fact that they have been made long back and the recovery of the amounts

amounts from the party, as objected to by the Auditor, would cause hardship, Government are pleased to approve, as a special case, of the action of the District Magistrate in having sanctioned refunds in the said cases.

T. Narayana Rao
General Secretary to Government.

The District Magistrate, Mysore [illegible] District, with the records.
Comptroller to Government.
Secretary, Traffic Board.

Extract from Audit objection Notes.

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39) Refund record No.40/36-37. The period of refund is 1-1 1937 to 5-2-1937 but the license was surrendered only on 31-3-1937. Under the rule referred to in objection 38, (24 (c) page 143) he is not entitled to refund of tax for more than a day. A sum of Rs.40-9-0 will have been paid in excess and it may be kindly recovered.

40) Refund record No.4/37-38 Mys.5717. The period of refun is the second quarter of 1936-37 for which the party paid serv tax on 4-8-1937 i.e., after the lapse of 7 months from the end of the quarter for which it was due while it should have been paid on or before 7-9-1936 under the rule. The refund is claimed on 3-8-1937 and the amount refunded is Rs.112/-. under rule 24 (g) (i) page 145 of the Motor Manual no refund is admissible on an application not made within a period of one m for the date of the expiry of the period for which the tax was ble. The amount refunded may be kindly recovered.

"C O P Y"

T. [illegible]

General Secretary to Government.